

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 03 PRETORIA 002834

SIPDIS

DEPT PLS PASS TO ALEAP COLLECTIVE
DEPT FOR EB/TPP/IPE SWILSON; AF/S KGAITHER
USDOC FOR 4510/ITA/IEP/ANESA/OA/JDIEMOND
COMMERCE ALSO FOR HVINEYARD
TREASURY FOR BRESNICK AND CUSHMAN
DEPT PASS USPTO FOR MADLIN
DEPT PASS USTR FOR PCOLEMAN, WJACKSON, AND VESPINEL

E.O. 12958: N/A

TAGS: [KIPR](#) [ETRD](#) [SF](#) [USTR](#)

SUBJECT: EU GEOGRAPHICAL INDICATIONS ALREADY AFFECT SOUTH AFRICA

REF: STATE 131291

1. Summary. There are a number of examples of South African food products currently on the shelves in major retail stores in Pretoria that would be affected by the European Commission's WTO proposal(s) on Geographical Indications (GIs). South Africa already recognizes EU GIs for wine and spirits through bilateral agreements balanced heavily in favor of the EU. Developing countries ought to take a look at these agreements and consider the equities and the costs of what such a system would mean for them. End summary.

2. The European Commission's WTO proposal(s) on Geographical Indications (GIs) would require changes in the labels that South African food companies have used to market their domestically produced products. The following are examples of South African products currently on the shelves in major retail stores in Pretoria. Many of these products compete with the imported product on the same shelf. For example, while many of the products feature the flag and map of Italy with the logo "regional taste of Italy", only a close examination of the label indicates whether the product is actually imported from Italy or a product of South Africa.

Cheese:

Brie
Camembert
Feta
Gouda
Gruyere
Halloumi
Mascarpone
Mozzarella
Pecorino
Provolone
Parmaggio
Ricotta

Olives:

Calamata Olives
Kalamati Olives
Manzinilla Olives
Vesuvio Olive oil

Miscellaneous food products:

Provencale tomato and basil rub
Bulgarian fat free yoghurt
Portuguese peri peri rub
Chicken viennas
Smoked viennas
Smoked and skinless frankfurters

Non-EU GIs:

Cape Malay curry powder
Thai red curry paste
Thai stir fry oil
Mozambican style peri peri
Indonesian sweet soya sauce

3. The above names are extensively used by such South African brands as Simonsberg, Clover, Dairy Bell, Pick 'n Pay Choice, Woolworth Foods, Cremona & sons, Tee-Tee dairies, Parmalat, and Tuna Marine. Major South African retailers are actively marketing many of these brands elsewhere in sub-Saharan Africa.

Wine and Spirits - already compromised with EU

4. For countries interested in understanding what the EU would like to achieve with regard to GIs for wine and

spirits globally, South Africa is a good place to start. South Africa has already compromised itself on these products by binding itself three years ago to the EU's scheme in supplemental agreements to a bilateral trade and cooperation agreement. The text of the wine agreement alone is 102 pages long. It contains a list arranged by EU member state with the names of regions and cities, and the names of hundreds of communes or parts of communes. The list for Germany is 19 pages long while France's takes up 13 pages. The most astute consular officers would be challenged to locate most of these communes in their own consular districts. It covers the wine products listed in reftel (e.g., Champagne, Beaujolais, Bordeaux, Chablis, Chianti, Moselle, Saint-Emilion). The agreement prohibits any use of protected indications even when:

The true origin of the wine is indicated;

The geographic indication is used in translation;

The indications are accompanied by expressions such as "kind," "type," "style," "imitation," "method" or the like.

15. The agreement's enforcement provisions require in cases where there is a breach of the protected names that the Contracting Parties shall apply the necessary administrative measures and/or initiate legal proceedings as appropriate in order to combat unfair competition or to prevent in any way unfair use of the protected names.

16. A separate 13-page agreement on "spirits" specifically protects the EU names of Grappa, Ouzo, Korn, Kornbrandd, Jagatee, and Pacharan (i.e., those GIs listed in reftel) as well as other EU GIs in a list that is five pages long and covers 16 categories (e.g., rum, whisky, vodka, fruit spirit). The South Africa list, on the other hand, has only five names altogether in a single category, brandy.

17. A common complaint of developing countries and LDCs is that they do not have the capacity to implement the WTO Agreements they have already acceded to under the Uruguay Round. If they want to experience a real nightmare of capacity constraints, they ought to consider the EU list of GIs in the agreement with South Africa. In terms of equity, they should also consider this gem in the prefaces of the bilateral accords: "Desirous of creating favorable conditions for the harmonious development of trade and the promotion of commercial cooperation in the wine sector on the basis of equality, mutual benefit and reciprocity." More specifically, developing countries and LDCs ought to ask themselves the following questions in considering the EU proposals at the WTO:

-- In terms of equality, mutual benefit and reciprocity, how many GIs are they likely to want to list from their own country versus the number the EU wants for its GIs?

-- In terms of enforcement, can they really afford to undertake new obligations to spend scarce legal resources to enforce EU GIs?

-- Isn't there a more affordable and less cumbersome way for countries to protect their valued GIs without resorting to the EU proposal?

18. The texts of the protocols between South Africa and the EU are in the Official Journal of the European Communities L 28/104 30.1.2002 and on the following website: www.tralac.org/pdf/L284_nhsp_Agreement_nbsp_Wine.pdf.
MINIMIZE CONSIDERED
HARTLEY